

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

District of

Division

Case No.

8:23CV239

(to be filled in by the Clerk's Office)

(travis cox)
 Inmates of Douglas County DC
 Class Action Plaintiffs See Attached
 (Write the full name of each plaintiff who is filing this complaint.
 If the names of all the plaintiffs cannot fit in the space above,
 please write "see attached" in the space and attach an additional
 page with the full list of names.)

-v-

Douglas County Department of
 Corrections, Wellpath, Mike Myers

Defendant(s)

(Write the full name of each defendant who is being sued. If the
 names of all the defendants cannot fit in the space above, please
 write "see attached" in the space and attach an additional page
 with the full list of names. Do not include addresses here.)

FILED
 U.S. DISTRICT COURT
 DISTRICT OF NEBRASKA
 2023 JUN -5 PM 12:08
 OFFICE OF THE CLERK

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

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JUN 05 2023

CLERK
U.S. DISTRICT COURT

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which
you have been known:

ID Number

Current Institution

Address

Travis Cox (See Attached)

3479840 212271

Douglas County Department of Corrections

710 S 17th Street

Omaha NE 68102

City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Douglas County Department of Corrections

State of Nebraska

710 S 17th St

Omaha NE 68102

City State Zip Code

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

WellPath Medical Providers

State of Nebraska

710 S 17th Street

Omaha NE 68102

City State Zip Code

☐ Individual capacity ☒ Official capacity

1983c Class Action Lawsuit

List of Plaintiffs

violations of
Eighth AmendmentLiving
Conditions

Name	#	Living Conditions
1) Travis Cox	3479840	Kuan/ #2394215
2) HUDSON	2896841	Looney 241677
3) Hoshar	2336564	Cabbell 1441961
4) Sheeks	3517583	Lucas 2397254
Alexandro Escamilla	3604847	Joshua Koenig 1274546
Adam Becka	2860828	
JOHNSON	3493115	
Brent Baxter	1321806	
O. Simpson	2959243	
Lee Franklin	3301793	
Chris Freeman II	329256	
STANLEY MURRAY	1422197	
Greg Henriksen	2060446	
Dennis Black	2015803	
Alaron Thomas	3122053	
JAMES BURRIS	3048039	
Leslie Saml	29660047	
David Garcia	3250197	
Shyaquan Craftenden	3286501	
Robert Tiger	1234781	
Xavier Woods	2241670	
Lorenzo Ballard	2905786	
Austin Girden	3281439	
Michael Schmidt	40271789	
HERNANDEZ	3667497	
RUBIO	3657370	
JOSE VAZQUAZ	3667640	
JOSE	3667640	

Camont Smith 3260346

Stacy D Moore 2322752

Kare bycliman #3574141

David Lambert #3544675

RUMALDO - 3242885

Jeff Hammond #3660912

Max Kinklin #3413062

RICHARD DIXON #31123652

Abraham Sanchez 2282165

Joshua Czarnikaw #3021236

Andres Rios ^{AR} #2010225 #2010235

~~James~~ #2393433 ~~James~~ James Jr

Kevin Thornton 3479516

i/Peng BouAFake 3650517

Jacob E Wright 2100892

Michael D Stewart 1208857

John Brooks 3477042 ~~John Brooks~~

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Defendant No. 3

Name

Mike Myers

Job or Title (if known)

Director of Corrections

Shield Number

Employer

710 S 17th Street (State of NE)

Address

Omaha

City

NE

State

68102

Zip Code

☐ Individual capacity☐ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐ Individual capacity☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

The Plaintiffs are inmates in DCDC all defendants are local officials representing the city, county and state & at all times acting as such violated the VIII Amendment for Cruel and Unusual Punishment through living conditions and deliberate indifference

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Mike Myers and Douglas County Dept of Corrections are in control of all inmates in DCDC and at all times acting as representatives of Nebraska State Law as such Wellpath are the medical providers acting under DCDC's State guidelines

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Inmates throughout DCDC are neglected and refused medical treatment. These actions occur daily in every unit in DCDC. Several units have raw sewage leaking from toilets no air circulation no hot water. Multiple housing units have rats, mice, gnats and flies all capable of spreading infectious diseases. Additionally as

Statement of Chik

I have brought this case before this honorable court because in my 90+ days here I have witnessed quite a bit. I have seen raw sewage leaking into the floor from the toilets in units 6 & 7. I have seen flies and gnats in nearly every unit. Mice and Rat droppings. I have seen people with severe medical problems be completely ignored. I watched as inmates send Kites to medical and ten minutes later the kite will say they were triaged then in the morning dispositioned but they, the inmate, never went to medical and was never seen. I seen a man crying because a hemorrhoid bleed through his clothes onto his bedding and when he asked for help he was laughed at, it took two days to get him new bedding and pants. I have Hepatitis but I'm told treatment is expensive. In my eyes this is deliberate indifference *Estelle v Gamble*, 429 U.S. 97, 105, 97 S.Ct. 285, 291 50 L.Ed.2d says that constitutes infliction of cruel and unusual punishment. It also states medical care can't be denied under the 8th amendment and *Bowring v Godwin* 551 F.2d 44 says mental health/psychiatric care should be given if a prisoner has a serious disease that might be curable and a delay in treatment might make it worse. Like a person such as myself with PTSD forced to live with a guy who was in a PREA case against them. *Kosilek v Maloney* 221 F Supp 2d 156 says it is not permissible to deny a prisoner medical treatment because it is costly

~~Statement of Chris (cont.)~~

In the 90+ days I have been here 30 at least have had no recreational time and thats only in the unit I am in. This is a federal holding facility. Inmates are supposed to be given a hour of outdoor recreational time. Inmates are denied educational materials, vocational certificates. As I write this my books from Blackstone Career Institute are waiting in the mailroom to be sent back return to sender despite the fact that I am a sentenced state inmate who has been approved to participate in this program. This, if I am removed, will be the second paralegal program I paid for and was denied to participate. I am denied substance abuse treatment, yet I sit here on a drug charge. I attempted to file a lawsuit and immediately was fired from my institutional job, reclassified to medium custody and moved to a higher security unit then threatened by the prosecution with additional charges. We are being threatened and intimidated by prosecutors fed sub-standard quality and amounts of food. Ignored when we need attention. Given attention when we need to be left alone, given tablets as our only means to do anything and the same ten people watch movies all day. Some people can't write kites or ask for treatment or write medical this is America I thought that meant we didn't treat people like this. Douglas County DOC has been doing this for too long.

of the last 90 days over 30 have been without recreation time.

C. What date and approximate time did the events giving rise to your claim(s) occur?

Sewage and Pest infestation has been constant since 2-17-23. ~~Read~~ ^{TC}
Recreation time is cancelled for differing units daily. Medical kites are signed as though inmates were seen and dispositioned when no one has been seen

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

The facts are those who need medical treatment are denied by medical, as we are told, by administration regulations. As inmates in a federal holding facility we are entitled to one hour outside recreation daily we do not get this. We live in units with raw sewage and pest infestation with little or no medical treatment

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Travis Cox Medical Treatments and Mental Health treatments include PTSD and Hepatitis C. Liver Damage, Stroke like symptoms, blurred vision. Several Inmates, Hector Velasquez, have had massive infections and are left contagious in general population. Inmate Michael Stewart 1208857 was left in blood soaked pants for 4 days before being given clothes. John Brooks is covered in a rash with soars and is untreated this is in one unit alone

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

The Inmates of Douglas County Department of Corrections seek compensatory damages actual and punitive in the amount of \$10,000,000.00 from the defendants jointly and severally. 7.5 m to be dispersed to the inmates and 2.5m to be used as a inmate welfare fund aimed at solving these problems

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Douglas County Department of Corrections

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

All grievances are answered not a grievable issue

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- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Via tablets at DCDC

2. What did you claim in your grievance?

Denial of treatment, Denial of access to medical records

3. What was the result, if any?

told not grievable

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

told non grievable issues cannot be appealed

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

Some inmates fear retaliation from staff

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

Corporal Sanduski Corporal Stevens
Sgt Owens

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Administration simply says not grievable or there is no problem and acts as though nothing ever happened

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 5-25-23

Signature of Plaintiff J Cox

Printed Name of Plaintiff Travis Cox Inmates of Douglas County

Prison Identification # 3479840 212271

Prison Address 710 S 17th Street

Omaha NE 68102

City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

City State Zip Code

Telephone Number _____

E-mail Address _____

Travis Coy

Printed Name

(3479840) (F)

Data # Module #

Douglas County

DEPARTMENT OF CORRECTIONS

710 SOUTH 17TH STREET

OMAHA, NEBRASKA 68102

Legal

Office of the Clerk
United States District Court
111 S. 18th Plaza, Suite 1152
Omaha, NE 68102-1322



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